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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## DETAILED ACTION

### *Acknowledgement*

1.      Claims 38-47 are pending and have been examined.


### *Claim Rejections - 35 USC § 103*

2.      The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains.  Patentability shall not be negatived by the
> manner in which the invention was made.

3.      Claims 38-41, 46, and 47 are rejected under 35 U.S.C. §103(a) as being unpatentable

over Rabin (US 6,697,948) in view of Tinney (Organize Your Finances in a Weekend with

Quicken® 2000).

4.      As to claim 38, Rabin shows:

      a.      A computer implemented client method for dynamically managing a user

           software license, the method comprising:

      b.      receiving an action from the user **213** to access a software program

           (software(SW)) (Figure 12, step 370);

      c.      responsive to receiving the action from the user, sending a request (call up) to a

           server (guardian center) to access the software program (Id.), the request

           including license verification information concerning the user (tag) (Figure 12,

           step 372);

      d.     receiving current software license information concerning the user from the server

            (Figure 12, step 374); and

      e.     storing (an update stores new information) received current software license

            information concerning the user (Figure 12, step 375).

5.     Rabin does not expressly show that the validation is performed on a per feature basis.

6.     However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329). As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.


7.     As to claim 39, Rabin further shows:

      f.     performing at least one step (Figure 12, step 376) from a group of steps

            comprising:

      g.     displaying a message to the user indicating that the user is not licensed to run the

            software program (Column 54, lines 14-17);

      h.     providing the user with an opportunity to purchase a license to run the software

            program (Column 59, lines 38-57);

      i.     allowing the user to run the software program without a license for a limited time

            only (Column 5, lines 36-53);

> j.   allowing the user to run the software program without a license a limited number of times only (Id.); and
>
> k.   terminating the software program, such that the user cannot run the software program (Column 54, lines 14-19).

8.   As to claim 40, Rabin further shows:

> the received current software license information concerning the user comprises modified license information concerning the user (the tag is modified in Figures 13A and 13B, therefore, the next time the tag is sent it would be modified).

9.   As to claim 41, Rabin further shows:

> l.   the modified license information concerning the user comprises a user software license from a group of user software licenses comprising:
>
> m.   an activated user software license (installed, Figure 6);
>
> n.   a deactivated user software license (gc_disabled, Id.);
>
> o.   an extended user software license (continued, Id.);
>
> p.   a restricted user software license (policy, Columns 55-56, lines 57-10);

10.   As to claim 46, Rabin shows:

> q.   A computer readable medium **200** containing instructions that, when executed, cause the computer system to perform desired actions for dynamically managing a user software license, wherein the instructions comprise:

      r.      program code for receiving an action from the user **213** to access a software

            program (Figure 12, step 370);

      s.      program code for, responsive to receiving the action from the user, sending a

            request  (call up) to a server (guardian center) to access the software program

            (Id.), the request including identification information concerning the user, and

            license verification information concerning the user (tag) (Figure 12, step 372);

      t.      program code for receiving current software license information concerning the

            user from the server (Figure 12, step 374);

      u.      program code for storing (an update stores new information) received current

            software license information concerning the user (Figure 12, step 375); and

11.    Rabin does not expressly show that the validation is performed on a per feature basis.

12.    However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329).  As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.


13.    As to claim 47, Rabin shows:

      v.      A computer system for dynamically managing a user software license, the

            computer system comprising:

w.   a mechanism for receiving an action from the user **213** to access a software

program (software(SW)) (Figure 12, step 370);

x.   a mechanism for, responsive to receiving the action from the user, sending a

request (call up) to a server (guardian center) to access the feature of the software

program (Id.), the request including identification information concerning the user

(fingerprint), and license verification information concerning the user (tag)

(Figure 12, step 372);

y.   a mechanism for receiving current software license information concerning the

user from the server (Figure 12, step 374); and

z.   a mechanism for storing received current software license information concerning

the user (Figure 12, step 375).

14.   Rabin does not expressly show that the validation is performed on a per feature basis.

15.   However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329). As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.


16.   Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabin and

Tinney as applied to claim 38 above, and further in view of another embodiment of Rabin.

17.     As to claims 42-44, the Rabin/Tiney combination teaches as disclosed above, but does

not expressly teach:

aa.     creating a current hardware configuration identifier of the computer associated

with the user; and

bb.     comparing the received hardware configuration identifier to the current hardware

configuration identifier.

18.     However, Rabin teaches, outside of the embodiment used above, the use of a hardware

identifier, specifically a processor identifier, compared with the stored value to enable, or prevent

the use of software (Columns 1-2, lines 57-2). Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to have further modified the teachings of the

first embodiment of Rabin to use a processor identifier in the authentication of the user device

because hardware identifiers are more difficult to alter.


19.     As to claim 45, Rabin further shows:

cc.     performing at least one step (Figure 12, step 376)  from a group of steps

comprising:

dd.     displaying a message to the user indicating that the user is not licensed to run the

software program (Column 54, lines 14-17);

ee.     providing the user with an opportunity to purchase a license to run the software

program (Column 59, lines 38-57);

ff.     allowing the user to run the software program without a license for a limited time

only (Id.); and

gg.     allowing the user to run the software program without a license a limited number
        of times only (Column 54, lines 14-19).

### *Claim Interpretation*

20.     As discussed in paragraphs 27-29 of the previous action, the Examiner's position is that
Applicants' did not intend to invoke 35 U.S.C. 112 6th paragraph with their use of "means for" in
claim 47.  As suggested in paragraph 27, Applicants have removed "means for" from this claim.
Accordingly, the Examiner has not interpreted this claim as prescribed by the above noted
section.

### *Double Patenting*

21.     Claims 42-46 of this application conflict with claims 1-3, 29-31, 43-45, and 55-63 of
Application No. 10/684955.  37 CFR 1.78(b) provides that when two or more applications filed
by the same applicant contain conflicting claims, elimination of such claims from all but one
application may be required in the absence of good and sufficient reason for their retention
during pendency in more than one application.  Applicant is required to either cancel the
conflicting claims from all but one application or maintain a clear line of demarcation between
the applications.  See MPEP § 822.

### *Response to Arguments*

22.     Applicant's arguments filed 17 October 2008 have been fully considered but they are not persuasive.

23.     Applicants argue:

24.     "Tinney does not disclose making features available to a user depending on the license possessed on a per feature basis" (Remarks, Page 8, Paragraph 1).


25.     Examiner's response:

26.     It appears that Applicants intend to claim a method where each feature may be licensed individually.  However, the present claims do not make this distinction.  If this distinction is added to the claims it would likely overcome the present rejections.


27.     Applicants argue:

28.     "[C]laims 1-3, 29-31, 43-45, and 55-63 of Application No. 10/684,955 are directed to a server method for dynamically managing a user software license, where the server method receives a request from a client for access to at least one feature of a software program, and returns to the client a corresponding software license in response to the request. In contrast, claims 38- 47 of the present invention are directed to a client method for dynamically managing a user software license, where the client method sends a request to a server for access to a feature from one or more features of a software program in response to an action from a user to access the feature, and receives a corresponding software license from the server" (Remarks, Page 9, Paragraph 3).

29.    Examiner's response:

30.    Essentially, Applicants argue that the inventions of the two applications are patentably

distinct because of the computer executing the method.  It is well known in the art that computers

are multipurpose machines.  Most "client" computers (such as a PC) come equipped with

software to enable them to operate as a server as part of the operating system.  If the computer

does not have the software as part of the operating system, there are numerous easily obtainable

software packages that can be installed (sambar server, apache, etc.).  Therefore, the difference

between a client and a server is the current role the computer is fulfilling and the altering of

settings or installation of a software package.  These differences would be obvious to one of

ordinary skill in the art.  These would be the changes made in configuring the server that is

required in both inventions.  Therefore, one of ordinary skill would have to know how to perform

the modification.  Thus, the Double Patenting rejection has been maintained.

### Conclusion

31.    The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure: Mirabella (US 2004/0167859) shows client/server feature licensing.

32.    **THIS ACTION IS MADE FINAL.**  Applicant is reminded of the extension of time

policy as set forth in 37 C.F.R. §1.136(a).

33.    A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R.

§1.136(a) will be calculated from the mailing date of the advisory action.  In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this

final action.

34.     Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-

3270.  The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

35.     If attempts to reach the Examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Fischer can be reached on (571) 272-6779.  The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

36.     Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system.  Status information for published applications

may be obtained from either Private PAIR or Public PAIR.  Status information for unpublished

applications is available through Private PAIR only.  For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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